

See Attachment

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1/9/02
JSM

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

SHAWN JORDAN,

Plaintiff

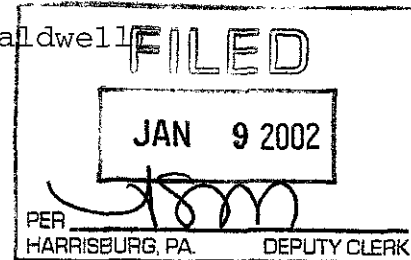
v.

ROBERT W. MEYERS,
Superintendent, et al.,

Defendants

CIVIL NO. 1:00-CV-1387

(Judge Caldwell)



O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On December 11, 2001, we ordered defendants to respond to plaintiff Jordan's Motion to Compel. On December 29, 2001, defendants filed a brief in opposition to Jordan's motion and a nunc pro tunc request for an enlargement of time to accept their response out of time.

As explanation for their failure to respond to Jordan's discovery motion, defendants state they were unaware of this obligation as they never were served with a copy thereof. Turning to the possible merits of Jordan's discovery issues, without examination of the plaintiff's motion to compel, defendants surmised Jordan's motion took issue with their admitted failure to respond to his October 15, 2001 Request for Admissions. However, this is not the case. Upon the Court's review of plaintiff's motion to compel it is clear that Jordan seeks a response to his


September 10, 2001 - Request for Production of Documents, and not his unanswered request for admissions.¹ However, given the defendants' brief in opposition to Jordan's motion to compel, which includes a candid acknowledgment of unanswered requests for admissions without any further reference to outstanding discovery obligations, it appears that defendants may not have received a copy of Jordan's Request for Production of Documents. In light of such, we will deny Jordan's motion to compel and direct Jordan to re-serve defendants with his request for production of documents in accordance Fed.R.Civ.P. 34.² If after the appropriate response period defendants have failed to respond to the discovery request, or Jordan takes issue with objections lodged by defendants to specific request, Jordan may refile his motion to compel outlining the specific discovery requests in dispute. Via this Order we will also deal with related administrative matters and grant defendants' motion for enlargement of time within which to file a brief opposing plaintiff's discovery motion nunc pro tunc, and accept their brief in opposition as timely filed.

NOW, THEREFORE, IT IS ORDERED THAT:

¹ Jordan need not file a motion to compel with regard to the unanswered requests for admissions because, as defendants concede, they are deemed admitted by operation of Fed.R.Civ.P. 36(a).

² Plaintiff is cautioned to include an appropriate certificate of service with his future discovery requests and court filings.

1. Jordan's Motion for Order Compelling Discovery (doc. 28) is denied.
2. Jordan is directed to re-serve defendants with a copy of his request for production of documents that are the subject of his motion to compel.
3. Defendants' motion for enlargement of time within which to file a brief opposing plaintiff's discovery motion nunc pro tunc (doc. 32) is granted.
4. The Clerk is directed to accept Defendants' Brief in Opposition to Plaintiff's Discovery Motion as timely filed.



WILLIAM W. CALDWELL
United States District Judge

Date: January 9, 2002

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

January 9, 2002

Re: 1:00-cv-01387 Jordan v. Meyers

True and correct copies of the attached were mailed by the clerk
to the following:

Shawn Jordan
SCI-R
SCI at Rockview
BI 8942
P.O. Box A
Bellefonte, PA 16823

Gwendolyn T. Mosley, Esq.
Office of the Attorney General
Strawberry Sq.
15th Floor
Harrisburg, PA 17120 Fax No.: 717-772-4526

cc:

Judge
Magistrate Judge
U.S. Marshal
Probation

U.S. Attorney
Atty. for Deft.
Defendant

Warden
Bureau of Prisons
Ct Reporter

Ctroom Deputy
Orig-Security
Federal Public Defender
Summons Issued

Standard Order 93-5
Order to Show Cause

Bankruptcy Court
Other _____

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(✓) Pro Se Law Clerk
() INS
() Jury Clerk

Taggart

with N/C attached to complt. and served by:
U.S. Marshal () Pltf's Attorney ()

with Petition attached & mailed certified mail
to: US Atty Gen () PA Atty Gen ()
DA of County () Respondents ()

MARY E. D'ANDREA, Clerk

DATE:

1/9/02

BY:

asm
Deputy Clerk